

Customer No. 24498  
Attorney Docket: SCP061792  
Appeal Brief

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant: BASSET, Jean-Claude

Examiner: SCHNURR, John R.

Serial No: 09/980,355

Group Art Unit: 2421

Filed: July 25, 2002

Docket: SCP061792

Confirmation No.: 1390

For: Digital-television receiver/decoder device with playback for Interactive pre-recorded television programme

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Alexandria, VA 22313-1450

APPEAL BRIEF

Appellant appeals the status of Claims 1 – 19 as presented in response to the final Office Action dated July 6, 2009, and submits this Appeal Brief. A Notice of Appeal was filed on October 6, 2009. A Petition for Extension of Time, extending the deadline for filing the appeal brief to expire on January 6, 2010 is attached herewith. Also attached is a fee transmittal authorizing payment for filing the appeal brief, and any other fees due in connection with the appeal brief, to deposit account #07-0832.

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**1. Real Party in Interest**

The real party in interest is THOMSON LICENSING, the owner of the entire right, title and interest in and to the subject application as evidenced by the Exhibits G – L submitted in connection with the Petition under 37 CFR 1.47 filed on March 24, 2003.

**2. Related Appeals and Interferences**

Appellant is not aware of any appeals or interferences related to the present application.

**3. Status of Claims**

- a) Claims 1 – 19 are pending. Claims 1, 16 and 17 are independent.
- b) Claims 1 – 19 stand rejected and are under appeal.

**4. Status of Amendments**

An amendment together with a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, was filed and entered on April 24, 2009. No responses/amendments were filed subsequent to the April 24, 2009 amendment and RCE. The claims listed in section 8 "Claims Appendix" of this Appeal Brief correspond to the claims submitted in Appellant's amendment on April 24, 2009.

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## **5. Summary of Claimed Subject Matter<sup>1</sup>**

The claimed invention, as recited in claim 1, is directed to a Digital-television receiver/decoder device of the type comprising: - an input interface receiving digital-television signals originating from a predetermined broadcast network and for delivering a digital stream of television signals (page 6, lines 4 – 15); - a demultiplexer/extractor module extracting, from the digital stream, digital sequences relating to a chosen television program (page 6, lines 23 – 28); - a decoder module converting the digital sequences thus extracted into television signals compatible with a visual-display module (page 7, lines 14 – 18); - a module for recording and playing digital sequences of digital-television programs (page 18, lines 1 – 2; page 19, lines 1 – 2); - a processing module receiving, from a software application received from another medium (page 8, line 34 – page 9, line 2), initialization and marking information from said other medium, relating at least to the start and to the end of a television program (page 11, line 35 – page 12, line 5), as well as to the reception/extraction of the digital sequences relating to said television program (page 10, lines 32 – 36), and for comparing said initialization and marking information with the television digital stream originating from the demultiplexer/extractor module (page 10, lines 32 – 36), said processing module, in response to a positive comparison, causing the recording of the digital sequences relating to said television program as well as the initialization and marking information,

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<sup>1</sup> It should be explicitly noted that it is not the Appellant's intention that the currently claimed or described embodiments be limited to operation within the illustrative embodiments described below beyond what is required by the claim language. Further description of the illustrative embodiments are provided indicating portions of the claims which cover the illustrative embodiments merely for compliance with requirements of this appeal without intending to read any further interpreted limitations into the claims as presented.

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in the record/replay module (page 12, lines 6 – 8); and - an execution module, at the request of a user, for launching the playing of the digital sequences relating to said television program thus recorded, in synchronism with the initialization and marking information (page 18, lines 25 – 27), wherein said execution module further comprises a supplementary processing module for running software application further containing said initialization and marking information (page 18, lines 28 – 32), the software application being run in synchronism and in interactive mode with the playing of the digital-television program thus recorded with the aid of said initialization and marking information (page 19, lines 3 – 8).

The claimed invention, as recited in claim 16, is directed to a method of processing digital-television signals of the type comprising the following stages: a) receiving digital-television signals originating from a predetermined broadcast network and delivering a digital stream of television signals (page 6, lines 4 – 15); b) extracting, from the digital stream, digital sequences relating to a chosen television program (page 6, lines 23 – 28); c) converting the digital sequences thus extracted into television signals compatible with a visual-display module; d) receiving, from a predetermined software application received from another medium (page 8, line 34 – page 9, line 2), initialization and marking information from said other medium, relating at least to the start and to the end of a chosen television program (page 11, line 35 – page 12, line 5), as well as to the reception/extraction of the digital sequences relating to said chosen television program (page 10, lines 32 – 36), and comparing said initialization and marking information with the television digital stream originating from the demultiplexer/extractor module (page 10, lines 32 – 36); e) in response to a positive

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comparison, causing the recording of the digital sequences relating to said chosen television program as well as the initialization and marking information, in the record/replay module (page 12, lines 6 – 8); and f) at the request of a user, launching the playing of the digital sequences relating to said television program thus recorded (page 18, lines 25 – 27), wherein the method further comprising implementing the software application able to contain, in addition, said initialization and marking information (page 18, lines 28 – 32), and in that the playing step f is run in synchronism and in interactive mode with the running of the software application with the aid of the initialization and marking information (page 19, lines 3 – 8).

The claimed invention, as recited in claim 17, is directed to a software product embodied in a computer readable medium for a digital-television receiver/decoder device, of the type comprising initialization and marking information relating at least to the start and to the end of a chosen digital-television program (page 11, line 35 – page 12, line 5), as well as to the reception/extraction of the digital sequences relating to said chosen television program (page 6, lines 4 – 15, lines 23 – 28), said initialization and marking information being intended to be compared with a television digital stream (page 10, lines 32 – 36), and, in the event of a positive comparison, said software product being able to cause the recording of the digital sequences relating to said chosen television program as well as the initialization and marking information (page 12, lines 6 – 8), wherein said initialization and marking information (page 18, lines 28 – 32) is contained in a software application capable of being run in synchronism and in interactive mode with the playing of the digital-television program thus recorded with the aid of the initialization and marking information (page 19, lines 3 – 8).

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**6. Grounds of Rejection to be Reviewed on Appeal**

A. Whether claims 1 – 10, 12, 13 and 16 – 19 are properly rejected under 35 U.S.C. §103(a) over Killian (US Patent 6,163,316) in view of Alexander et al. (US Patent 6,177,931), hereinafter Alexander, and further in view of Zigmond et al. (US Patent 6,571,392), hereinafter Zigmond.

B. Whether claim 11 is properly rejected under 35 U.S.C. §103(a) over Killian, Alexander, Zigmond, and further in view of Ellis et al. (US Patent 6,665,869), hereinafter Ellis.

C. Whether claims 14 and 15 are properly rejected under 35 U.S.C. §103(a) over Killian, Alexander, Zigmond, and further in view of Feinleib et al. (US Patent Application Publication 2005/0166257), hereinafter Feinleib.

**7. Argument**

Appellant respectfully traverses the rejections in accordance with the detailed arguments set forth below.

A. **Claim 1 – 10, 12, 13 and 16 – 19 are not properly rejected under 35 U.S.C. §103(a) over Killian in view of Alexander, and further in view of Zigmond.**

It is respectfully submitted that the Examiner failed to establish a *prima facie* case of obviousness, because as discussed below, a teaching or suggestion of all limitations in Appellant's claims is lacking in the combination of Killian, Alexander and Zigmond.

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### **1. Claim 1**

For example, claim 1, in part, requires:

*"a processing module receiving, from a software application received from another medium, initialization and marking information from said other medium, relating at least to the start and to the end of a television program."*

(Emphasis added)

In the Office Action, page 4, the Office argued that the software application is the EPG 70 in Killian, Fig. 3 and column 8, lines 36 – 56. However, Appellant submits that, in Killian, the EPG 70 is first downloaded from the internet over link 14; then the initialization and marking information is generated by the suggestion module 76 according to the profile database (Fig. 6, column 16, lines 31 – 50). Since the suggestion module operates within the device after the EPG 70 is downloaded, the initialization and marking information is generated by the suggestion mode 76 within the device.

In the Office Action, page 2, Response to Arguments section, the Examiner alleged that Killian, Column 8, lines 53 – 56, teaches that the EPG is analogous to the initialization and marking information as it contains all the information necessary to select, schedule and record viewing opportunities. On page 3 of the Office Action, the Examiner further alleged that the schedule 100 is not the initialization and marking information but merely a subset of the initialization and marking information received from the internet in the form of EPG 70. Appellant respectfully disagrees with such allegations.



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Killian, column 8, lines 53 – 56, recites:

"In general, EPG 70 allows a viewer to more intelligently select, schedule, and record viewing opportunities according to program listing information 6 and a viewer profile associated with the viewer." (Emphasis added)

From the above passage, it is clear that the EPG 70 does not contains all the information necessary to select, schedule and record viewing opportunities, but rather must rely on the program listing information 6 and the viewer profile. As shown in Fig. 3, the EPG 70 does not encompass the program listing information 6 or the profile database 80. Therefore, the initialization and marking information as recited in claim 1 is not received from the internet in the form of EPG 70.

Killian, column 16, lines 31 – 56, states:

"At step 208, suggest module 76 accesses viewer profile 84 in profile database 80 and program listing information 6 in program listing database 48, in cooperation with EPG API 60, link 14, and database server 46. Suggest module 76 may access one or more local databases periodically updated to contain program listing information 6 to replace or combine with accessing database 48. Suggest module 76 may access program listing information 6 for all programs airing on a particular date, within one or more time slots 114, or any other set of programs. At step 210, suggest module 76 and associated scoring algorithm 77 calculate, determine, or otherwise generate a program score for each program according to viewer profile 84 and program listing information 6. At step 212, suggest module 76 generates preferred schedule 100 having channel

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programming 102 for appropriate time slots 114. In one embodiment, a scoring indicator 116 is associated with each program for which preferred schedule contains channel programming 102, in the form of a color overlaying textual information concerning the program or in any other format.” (Emphases added)

From the above passage, it is clear that the suggestion module 76 generates preferred schedule 100 having channel programming 102 for appropriate time slots 114. The suggestion module 76 is already downloaded into the system, thus, the initialization and marking information relating at least to the start and to the end of a chosen television program is locally generated by the suggestion module. Since EPG 70 does not contain initialization and marking information, the EPG 70 in Killian does not correspond to the claimed software application received from another medium. Therefore, Killian fails to disclose the claimed feature: a processing module receiving, from a software application received from another medium, initialization and marking information from said other medium, relating at least to the start and to the end of a chosen television program.

Even assuming arguendo that the EPC information of Killian could somehow be interpreted to correspond to the initialization and marking information, nowhere does Killian, nor any other the other references, disclose or suggest the feature of extracting the initialization and marking information in the digital sequences and causing a recording in response to a positive comparison. Nowhere do any of the references disclose or suggest time information derived from the EPG and performing the recited extracting, comparing, and recording.

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Appellant further submits that Alexander and Zigmond do not in any way cure the deficiencies present in Killian as discussed above for claim 1, as there is no showing of Alexander or Zigmond teaching or suggesting the above claimed feature.

In view of at least the foregoing, Appellant submits that claim 1 is patentable over Killian, Alexander and Zigmond, either singly or in combination, and the rejection should be reversed.

## **2. Claims 16 and 17**

Appellant's independent claim 16, in part, requires:

*"receiving, from a predetermined software application received from another medium, initialization and marking information from said other medium, relating at least to the start and to the end of a chosen television program."*

(Emphasis added)

Similarly, Appellant's independent claim 17, in part, requires:

*"wherein said initialization and marking information is contained in a software application capable of being run in synchronism and in interactive mode with the playing of the digital-television program thus recorded with the aid of the initialization and marking information."* (Emphasis added)

Claims 16 and 17 are different from claim 1, however the relative argument used above for claim 1 may be applied to claims 16 and 17. Therefore, Appellant essentially repeats the above arguments for claim 1 and applies them to claims 16 and 17, pointing out why Killian, Alexander and Zigmond fail to teach or suggest the above claimed

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features. Thus for at least the reasons discussed above for claim 1, claims 16 and 17 are patentable over Killian, Alexander and Zigmond and the rejection should be reversed.

**3. Claims 2 – 10, 12, 13, 18 and 19**

Claims 2 – 10, 12, 13, 18 and 19 respectively depend from one of claims 1 and 17, and inherit all the respective features of their respective base claim. Therefore, claims 2 – 10, 12, 13, 18 and 19 are patentable for at least the reason that they respectively depend from claims 1 or 17, with each claim containing further distinguishing features, and the rejection should be reversed.

**B. Claim 11 is not properly rejected under 35 U.S.C. §103(a) over Killian, Alexander, Zigmond, and further in view of Ellis.**

Appellant submits that Ellis does not in any way cure the defects in Killian, Alexander and Zigmond with respect to claim 1 above. Claim 11 depends from claim 1 and inherits all the features of claim 1. Thus, claim 11 is patentable for at least the same reasons discussed above with respect to claim 1, from which it depends, and with further distinguishing features. Therefore, the rejection of claim 11 should be reversed.

**C. Claims 14 and 15 are not properly rejected under 35 U.S.C. §103(a) over Killian, Alexander, Zigmond, and further in view of Feinleib.**

Appellant submits that Feinleib does not in any way cure the defects in Killian, Alexander and Zigmond with respect to claim 1 above. Claims 14 and 15 depend from claim 1 and inherits all the features of claim 1. Thus, claims 14 and 15 are patentable for at

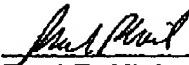
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least the same reasons discussed above with respect to claim 1, from which it depends, and with further distinguishing features. Therefore, the rejection of claims 14 and 15 should be reversed.

### Conclusion

The cited references, either singly or in combination, fail to teach or suggest all of the claim limitations of the pending claims. Accordingly, it is respectfully requested that the Board reverse the rejection of claims 1 – 19 under 35 U.S.C. §103(a).

Respectfully submitted,

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## 8. CLAIMS APPENDIX

1. (Previously presented): Digital-television receiver/decoder device of the type comprising:

- an input interface receiving digital-television signals originating from a predetermined broadcast network and for delivering a digital stream of television signals;
- a demultiplexer/extractor module extracting, from the digital stream, digital sequences relating to a chosen television program;
- a decoder module converting the digital sequences thus extracted into television signals compatible with a visual-display module;
- a module for recording and playing digital sequences of digital-television programs;
- a processing module receiving, from a software application received from another medium, initialization and marking information from said other medium, relating at least to the start and to the end of a television program, as well as to the reception/extraction of the digital sequences relating to said television program, and for comparing said initialization and marking information with the television digital stream originating from the demultiplexer/extractor module, said processing module, in response to a positive comparison, causing the recording of the digital sequences relating to said television program as well as the initialization and marking information, in the record/replay module; and
- an execution module, at the request of a user, for launching the playing of the digital sequences relating to said television program thus recorded, in synchronism with

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the initialization and marking information, wherein said execution module further comprises a supplementary processing module for running software application further containing said initialization and marking information, the software application being run in synchronism and in interactive mode with the playing of the digital-television program thus recorded with the aid of said initialization and marking information.

2. (Previously presented): The device as claimed in Claim 1, wherein the supplementary processing module consists of Internet processing means, intended to provide a link according to an Internet protocol IP, cooperating with memory-storage to store an Internet browser serving for Internet browsing, and in that the receiver/decoder device further comprises a communications module communicating with a remote server according to the Internet protocol.

3. (Previously presented): The device as claimed in Claim 2, wherein the communications module downloads the software application originating from the remote server.

4. (Previously presented): The device as claimed in Claim 1, comprising a media player able to read a data medium containing the software application.

5. (Previously presented): The device as claimed in Claim 1, comprising means suitable for receiving the software application with the digital-television stream.

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6. (Previously presented): The device as claimed in claim 1, wherein the execution module launches the playing of the digital sequences relating to the chosen television program and the running of the software application on the same visual-display module.

7. (Previously presented): The device as claimed in claim 1, further comprising man/machine interface means, the actuation of which allows the user to interact simultaneously and in synchronism in the playing of the recorded television program and in the running of the predetermined software application.

8. (Previously presented): The device as claimed in claim 2, wherein the Internet processing means cooperates with the visual-display module as well as a man/machine interface means of the receiver/decoder device.

9. (Previously presented): The device as claimed in Claim 8, wherein the demultiplexer/extractor module extracts the initialization and marking information of the television program and sends the information to the Internet processing means, to allow running of the predetermined software application in local mode and/or in cooperation with the remote server, in synchronism with the playing of the recorded television program.

10. (Previously presented): The device as claimed in Claim 2, wherein the Internet processing means, in cooperation with the processing means of the receiver/decoder, drives the record/replay module.



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11. (Previously presented): The device as claimed in Claim 10, wherein the Internet processing means delivers, to the record/replay module, commands of the stop, pause, pause start, start, slow, fast forward, rewind, jump forward, jump back, type.

12. (Previously presented): The device as claimed in claim 1, further comprising an image-composition module suitable for receiving the video images output by the decoder module as well as a graphics images output by an Internet processing means, so as to combine them according to a chosen image-composition mode.

13. (Previously presented): The device as claimed in Claim 12, wherein the image-composition mode is of overprint, multi-windowing, text, image-combining type.

14. (Previously presented): The device as claimed in Claim 12, wherein the image-composition module comprises:

- a first memory containing the video images output by the decoder module;
- a second memory containing the graphics information output by the Internet processing means;
- a third memory containing an image-composition program;
- image-processing means extracting the chosen information from the first and second memories depending on the composition program, to produce the composite images; and
- a module for synchronization of the visual-display module, to synchronize the

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composition of images output by the two memories.

15. (Previously presented): The device as claimed in claim 1, further comprising:

an interface of serial type and/or an interface of high-throughput link type so as to connect peripheral equipment of the printer, video/camera system, audio suite or video peripheral type.

16. (Previously presented): A method of processing digital-television signals of the type comprising the following stages:

a) receiving digital-television signals originating from a predetermined broadcast network and delivering a digital stream of television signals;

b) extracting, from the digital stream, digital sequences relating to a chosen television program;

c) converting the digital sequences thus extracted into television signals compatible with a visual-display module;

d) receiving, from a predetermined software application received from another medium, initialization and marking information from said other medium, relating at least to the start and to the end of a chosen television program, as well as to the reception/extraction of the digital sequences relating to said chosen television program, and comparing said initialization and marking information with the television digital stream originating from the demultiplexer/extractor module;

e) in response to a positive comparison, causing the recording of the digital sequences relating to said chosen television program as well as the initialization and

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marking information, in the record/replay module; and

f) at the request of a user, launching the playing of the digital sequences relating to said television program thus recorded,

wherein the method further comprising implementing the software application able to contain, in addition, said initialization and marking information, and in that the playing step f is run in synchronism and in interactive mode with the running of the software application with the aid of the initialization and marking information.

17. (Previously presented): A software product embodied in a computer readable medium for a digital-television receiver/decoder device, of the type comprising initialization and marking information relating at least to the start and to the end of a chosen digital-television program, as well as to the reception/extraction of the digital sequences relating to said chosen television program, said initialization and marking information being intended to be compared with a television digital stream, and, in the event of a positive comparison, said software product being able to cause the recording of the digital sequences relating to said chosen television program as well as the initialization and marking information, wherein said initialization and marking information is contained in a software application capable of being run in synchronism and in interactive mode with the playing of the digital-television program thus recorded with the aid of the initialization and marking information.

18. (Previously presented): The software product as claimed in Claim 17, wherein the software application is capable of being run on-line with a remote server.

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19. (Previously presented): The software product as claimed in Claim 17, wherein the computer readable medium is at least one of: a data medium, program memory, and distributed by downloading.

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9. **RELATED EVIDENCE APPENDIX**

No evidence has been submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title nor any other evidence entered by the examiner and relied upon by appellant in the appeal.

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**10. RELATED PROCEEDINGS APPENDIX**

Appellant is not aware of any appeals or interferences related to the present application.